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COMMITTEE ON THE RIGHTS OF THE CHILD

First session

SUMMARY RECORD OF THE 3rd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 1 October 1991, at 10 a.m.

Chairman: Mrs. BADRAN

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Adoption of the rules of procedure (continued)

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The meeting was called to order at 10.15 a.m.

ADOPTION OF THE RULES OF PROCEDURE (agenda item 4) (continued) (CRC/C/L.1)

Rule 6

Mrs. SANTOS PAIS suggested that the order of subparagraphs (c) and (d) should be inverted.

It was so decided.

Mrs. EUFEMIO suggested that the reference to "the relevant provisions of the Convention" should be more specific.

Mr. BRUNI (Secretary of the Committee) said that, in preparing each provisional agenda, the Secretary-General took account of the provisions of the Convention applicable to the programme of work of a given session. For example, provisions relating to elections would be relevant when there was an agenda item concerning elections. Other provisions, such as those governing the submission of reports of States parties, could be expected to be relevant at all future sessions.

Rule 6, as amended, was adopted.

Rule 7

Mr. KOLOSOV said that the wording of rule 7, which appeared to be inconsistent with that of rule 3, paragraph 1, did not make it clear that agenda items should be proposed not at the special session itself, but prior to it, either by a majority of the members of the Committee or at the request of a State party to the Convention.

The CHAIRMAN said she understood rule 7 to mean that agenda items should be proposed prior to the special session and considered at the same session.

Mrs. KLEIN (Centre for Human Rights) confirmed that the rule was intended to concern the consideration of items at the special session.

Mrs. SANTOS PAIS suggested that the meaning would be clearer if the word "are" was replaced by the word "were".

Mr. MOMBESHORA suggested that the sentence should end with the words "at the special session".

It was so decided.

Rule 7, as amended, was adopted.

Rule 8

Rule 8 was adopted.

Rule 9

Mrs. SANTOS PAIS said that, in the case of the rules of procedure of some other bodies, wording such as that of the second sentence had not been considered necessary. The intention of the second sentence was, moreover, already covered by the words "as appropriate" in the first sentence. However, if the members of the Committee believed that a degree of urgency and importance should be conveyed, the second sentence might be deleted and the words "taking into account the urgent or important nature of the items" might be included after the word "add" in the first sentence.

Mr. MOMBESHORA suggested that the word "regular" should be inserted before the word "session" to make it clear that there was no conflict with the wording of rule 7.

Mr. KOLOSOV said that any matter concerning problems related to children might be considered important. He therefore suggested that only the word "urgent" should be retained.

Mr. HAMMARBERG suggested that the words "urgent or important" should be replaced by the words "urgent and important".

Mgr. BAMBAREN GASTELUMENDI said that it was important to be able to add items to the agenda.

The CHAIRMAN suggested that, as there seemed to be a distinction between the words "as appropriate" and the words "important or urgent", the text should be retained as it stood, except for the insertion of the word "regular" before the word "session".

It was so decided.

Rule 9, as amended, was adopted.

Rule 10

Mrs. BELEMBAOGO suggested that the words "as early as possible" should be replaced by the words "who shall make every effort to transmit them at least six weeks prior to the opening of the session".

Mr. KOLOSOV said it was likely that some basic documents would not be ready for transmission as much as six weeks prior to a session and that, if the Committee set such a deadline, the secretariat might find that it was often breaching the rules of procedure.

Mr. HOUSHMAND (Representative of the Secretary-General) said that he agreed with Mr. Kolosov's assessment of the situation. It would be difficult for the secretariat to meet the six-week deadline unless the Committee decided to adopt a cut-off date after which documents received would not be available at that session. The provisional agenda could, however, easily be made available six weeks in advance.

Mrs. SANTOS PAIS suggested that the words "and wherever possible simultaneously with the notification of the opening of the session" should be added after the words "as early as possible".

Mr. HOUSHMAND (Representative of the Secretary-General) said that, in practice, documents would automatically be sent by the technical services to the members as soon as they were produced.

The CHAIRMAN suggested that the first sentence should read "as early as possible and, wherever possible, simultaneously with the notification of the opening of the session under rule 5" and that the second sentence should be deleted.

It was so decided.

Rule 10, as amended, was adopted.

Rule 11

Mrs. SANTOS PAIS suggested that the word "independent" should be added before the word "experts".

It was so decided.

Rule 11, as amended, was adopted.

Rule 12

Mr. HOUSHMAND (Representative of the Secretary-General), replying to a question by Mrs. BELEMBAOGO concerning the term of office, said that rule 12 would apply to future elections, when, in accordance with the rotation system, five members would be elected to the Committee every two years for a four-year term of office.

Rule 12 was adopted.

Rule 13

Mr. HOUSHMAND (Representative of the Secretary-General), referring to the first sentence, said that the meeting at which the elections had taken place had been held on 28 February 1991, so that the members' term of office had begun the following day. The date should therefore be amended to read "1 March 1991".

It was so decided.

Rule 13, as amended, was adopted.

Rule 14

Mrs. EUFEMIO, referring to paragraph 1, suggested that it might be prudent to specify the minimum time period that a member of the Committee must serve when replacing someone who was no longer able to perform his or

her duties. The words "to serve for the remainder of his or her predecessor's term" might allow for a very short period of service - only one or two months, for example - and that would be counter-productive.

Mrs. SANTOS PAIS pointed out that the Committee's rules of procedure provided for the holding of special sessions at any time. It was important to have a full complement of the Committee's 10 members functioning at all times and, for that reason, she endorsed the wording of paragraph 1.

Mgr. BAMBAREN GASTELUMENDI said that paragraph 1 should make it clear that not only the Secretary-General, but also the Committee, was involved in the replacement of a member who was no longer able to perform his or her duties. He cited the rules of procedure of the Human Rights Committee, which gave it control over the replacement of members. He suggested that the words "the Chairman of the Committee shall communicate to the Secretary-General the vacancy and" should be inserted before the words "the Secretary-General".

Mrs. BELEMBAOGO endorsed that proposal, which would give the Committee a measure of control in case a Government was exerting pressure on a member of the Committee to resign, for example.

Mr. HOUSHMAND (Representative of the Secretary-General) explained that the three separate paragraphs of rule 14 covered different situations. Paragraph 1 dealt with the death or resignation of a member of the Committee; paragraph 2 covered the Committee's approval of replacement members; and paragraph 3 stipulated that the Secretary-General and the Committee were to act together in accordance with the provisions of paragraphs 1 and 2. Paragraph 3 might allay the concerns expressed by Mgr. Bambaren Gastelumendi.

The Human Rights Committee's rules of procedure described a process for appointing members that differed radically from that of the Committee on the Rights of the Child. It was necessary to convene a meeting of States parties in order to fill a vacancy on the Human Rights Committee. The rules of procedure also enabled that body to declare a seat vacant if a member was suspected of wilful or consistent absenteeism.

Should the Committee on the Rights of the Child wish to bring its rules of procedure more closely into line with those of the Human Rights Committee, it could consider adopting rule 13, paragraph 1, of that body's rules of procedure, which read: "If, in the unanimous opinion of the other members, a member of the Committee has ceased to carry out his functions for any cause other than absence of a temporary character, the Chairman of the Committee shall notify the Secretary-General, who shall then declare the seat of that member to be vacant". That provision offered the Committee an additional measure of control, enabling it to take the initiative of declaring an absentee member's seat vacant. If the provision was adopted, he suggested that it should become a new paragraph 1 and that the existing paragraphs 1, 2 and 3 should be renumbered accordingly.

Lastly, if the amendment suggested by Mgr. Bambaren Gastelumendi was adopted, paragraph 2 (former paragraph 1) should be divided into two sentences, in the following way: the first sentence would end after the word "vacant" and the second would begin with the words "The Secretary-General shall request ...".

Mrs. SANTOS PAIS said that she endorsed the proposed amendments to paragraph 2 (former paragraph 1).

Miss MASON said that that paragraph, revised as suggested, might become somewhat redundant. Consideration should be given to tightening the drafting without leaving out any of the important elements covered in the paragraph.

Mrs. SANTOS PAIS suggested that, in new paragraph 3 (former paragraph 2), the words "after the approval" should be replaced by the words "upon approval", which were stronger.

After a discussion of the words "proven disability" in new paragraph 4 (former paragraph 3) in which Mrs. EUFEMIO, Mrs. SANTOS PAIS, Mrs. BELEMBAOGO and Miss MASON took part, Mr. HAMMARBERG suggested that the secretariat should be requested to produce a revised version of rule 14, taking into account all the views expressed during the discussion, in order to enable the Committee to reconsider the text at its next meeting.

It was so decided.

Rules 15 and 16

The CHAIRMAN noted that rules 15 and 16 had already been put into effect.

Rules 15 and 16 were adopted.

Rule 17

Rule 17 was adopted.

Rule 18

The CHAIRMAN, replying to a point raised by Mr. HAMMARBERG, said that, if she heard no objection, she would take it that the Committee agreed to include in its agenda for the current session an item concerning the role and capacity of members.

It was so decided.

Mgr. BAMBAREN GASTELUMENDI, referring to rule 19 of the rules of procedure of the Human Rights Committee, suggested that the words "and the decisions of the Committee" should be added at the end of the first sentence of rule 18.

The CHAIRMAN said that the amendment proposed by Mgr. Bambaren Gastelumendi might not be necessary, since it was stated in the second sentence of the rule that "the Chairperson shall remain under the authority of the Committee". If she heard no objection, she would take it that the Committee agreed to adopt rule 18 as it stood.

It was so decided.

Rule 18 was adopted.

Rules 19 and 20

Rules 19 and 20 were adopted.

Rule 21

Mrs. SANTOS PAIS said that, since the rule was closely related to rule 14, it might be appropriate to add the words "In accordance with rule 14 ..." at the beginning of the sentence.

After an exchange of views in which Mr. HAMMARBERG and Mrs. EUFEMIO took part, Mrs. SANTOS PAIS suggested that the words "a member of the Committee or for any reason is no longer able to act as an officer" should be replaced by the words "an officer of the Committee".

Mr. HOUSHMAND (Representative of the Secretary-General) said that rule 21 reflected the practice of United Nations bodies. Two elements were involved. First, an officer or the Chairperson might still be a member of the Committee, but not wish to continue as an officer or as Chairperson. In that case, the Committee would have to elect another person to replace him. Secondly, an officer might no longer be a member of the Committee, in which case a vacancy would arise that would have to be filled under rule 14. Those two points were covered in the rule drafted by the secretariat.

The CHAIRMAN said that, if she heard no objection, she would take it that the Committee decided to adopt the amendment suggested by Mrs. Santos Pais.

It was so decided.

Rule 21, as amended, was adopted.

Rule 22

Mr. HAMMARBERG said he would like to know what would happen if a disagreement arose about what was necessary with regard to staffing facilities for the effective performance of the Committee's functions under the Convention.

Mr. HOUSHMAND (Representative of the Secretary-General) said that the staffing of the secretariat was clearly the responsibility of the Secretary-General. It was a function entrusted to the Secretary-General under the Charter of the United Nations and, as long as the secretariat of the Committee was provided by the United Nations as far as administration and budgeting were concerned, the responsibility of designating staff for the effective functioning of the Committee would be that of the Secretary-General and not the Committee. However, if the Committee was not satisfied with the level of servicing, it should feel free to say so and the Secretary-General would make every effort to ensure that it was provided with the necessary staff and facilities.

Mr. HAMMARBERG said that the Committee had a different status from that of an ordinary United Nations body. In his opinion, it would be necessary to have a discussion of the Committee's relationship to the United Nations at a later stage.

Mr. HOUSHMAND (Representative of the Secretary-General), replying to a question raised by Mrs. EUFEMIO, said that concern about subsidiary bodies could be met by adding the words "under rule 63 of its rules of procedure" after the words "established by the Committee" in paragraph 1 of the rule.

After a discussion in which Miss MASON and Mrs. SANTOS PAIS took part, the CHAIRMAN said that, if she heard no objection, she would take it that the Committee decided to adopt rule 22 with the amendment proposed by Mr. Houshmand and to delete the words "(hereinafter referred to as 'the secretariat')".

It was so decided.

Rule 22, as amended, was adopted.

Rule 23

Rule 23 was adopted.

Rules 24 and 25

Rules 24 and 25 were adopted.

Rule 26

Mr. HAMMARBERG, supported by Mrs. EUFEMIO, said it should be understood that rule 26 must be applied with good judgement so that the work of the Committee would not be hampered.

Mr. KOLOSOV said that, in his view, rule 26 referred to the costs of the work of the Committee itself and not to the costs involved in its decisions to assist States. With that understanding, the wording of rule 26 was acceptable to him.

Mgr. BAMBAREN GASTELUMENDI noted that, beyond financial needs, there was also a great need for moral support for the Committee's initiatives.

Rule 26 was adopted.

Rule 27

After a discussion in which Mrs. SANTOS PAIS, Mrs. EUFEMIO, Mr. KOLOSOV and Mr. HOUSHMAND (Representative of the Secretary-General) took part, the CHAIRMAN suggested that rule 27 should be amended to read: "Arabic, Chinese, English, French, Russian and Spanish shall be the official and the working languages of the Committee.".

It was so decided.

Rule 27, as amended, was adopted.

Rules 28 and 29

Rules 28 and 29 were adopted.

Rule 30

The CHAIRMAN noted that no summary records would be issued in Chinese until such time as China had ratified the Convention. She wondered whether the members wished to spell that out in rule 30.

Mrs. SANTOS PAIS said she agreed that a reference to the Chinese summary records might encourage the Government to reconsider ratifying the Convention. However, it might be preferable to use more general wording and to leave room for the Secretary-General to consider which languages were needed for the proper functioning of the Committee.

Mrs. EUFEMIO said that she endorsed Mrs. Santos Pais' proposal.

Mr. HOUSHMAND (Representative of the Secretary-General) said that what was desirable was one thing and reality quite another. Even the Economic and Social Council did not issue summary records in Chinese. He suggested that the customary practice should be maintained for the time being; the rule might subsequently be amended if the Committee so wished.

Mrs. EUFEMIO said that there was a possibility that China might ratify the Convention soon. In view of the large number of Chinese children, many of whom were living in difficult conditions, she believed that rule 30 should allow for the possibility of China's participation.

The CHAIRMAN suggested that rule 30 should be amended to read: "Summary records of the meetings of the Committee shall be drawn up in those working languages as may be appropriate.".

It was so decided.

Rule 30, as amended, was adopted.

Rule 31

The CHAIRMAN suggested that a decision on rule 31 should be deferred pending a discussion with the Conference Services Division.

It was so decided.

Rule 32

Rule 32 was adopted.

The meeting rose at 12.55 p.m.